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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Cal-Nev-Ari, Boulder City,)
and Las Vegas, NV))

MM Docket No. 93-279
RM-8368
RM-8385

To: Chief, Allocations Branch
Audio Services Division
Mass Media Bureau

Attention: Mail Stop 1800D5

PETITION FOR LEAVE TO FILE SUPPLEMENTAL REPLY COMMENTS

1. Richard W. Myers ("Myers") hereby petitions for leave to respond to the "Reply Comments" filed in this proceeding by Rock "N" Roll, Inc. ("KRRI") on January 26, 1994.

2. Myers is the petitioner in RM-8368, who has proposed the allotment of Channel 285A to Cal-Nev-Ari, Nevada. The Notice of Proposed Rule Making ("NPRM") in this proceeding,^{1/} specified deadlines of January 3, 1994, for comments and January 18, 1994, for reply comments. KRRI was on notice of these deadlines, having filed its own petition for rule making, RM-8385, on November 3, 1993, two months before initial comments were due in this proceeding. Yet KRRI filed nothing directed toward Myers' arguments until January 26, 1994, eight days after the reply comment deadline.

^{1/} DA 93-1265, released November 12, 1993.

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3. In its Reply Comments,^{2/} KRRI asserts that its petition for rule making fulfilled the requirement to file initial comments in this proceeding. That may be so, but it does not justify the filing of late reply comments. KRRI undoubtedly relied on the Commission's public notice, dated January 11, 1994, of KRRI's own petition,^{3/} which invited comments 15 days after that date, or by January 26, 1994. However, the public notice stated that "reply comments to this counterproposal should be submitted in this docket no later than 15 days (rather than [sic] within 30 days) after the date of this public notice" [emphasis added]. In other words, the Commission invited responses to KRRI's petition, not Myers' petition, by January 26, 1994.

4. By not filing anything discussing Myers' proposal until January 26, and then filing an extensive pleading attacking the arguments made in Myers' comments and reply comments, KRRI effectively deprived Myers of any opportunity to respond, whereas if KRRI had filed on January 18, Myers could have responded on January 26.

5. It is thus apparent that KRRI's reply comments should be struck insofar as they address Myers' Cal-Nev-Ari proposal. However, striking reply comments that are already on the record is not as constructive, in Myers' view, as simply allowing Myers the opportunity to reply that he should have had in the first place. Therefore, Myers hereby requests leave to file the

^{2/} KRRI Reply Comments at page 2.

^{3/} Petitions for Rulemaking Filed, Report No. 1996.

Supplemental Reply Comments which accompany this Motion. The Reply Comments are strictly limited to responding to filings made on January 26, 1993.

Arent Fox Kintner
Plotkin & Kahn
1050 Connecticut Ave., N.W.
Washington, DC 20036-5339
(202) 857-6024

February 1, 1994

Respectfully submitted,


Peter Tannenwald

Counsel for Richard W. Myers

CERTIFICATE OF SERVICE

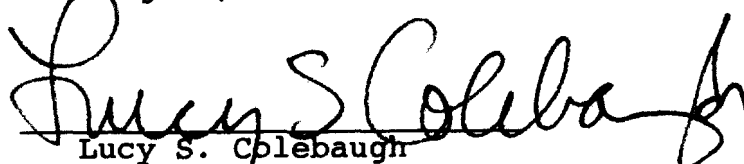
I, Lucy S. Colebaugh, do hereby certify that on this first day of February, 1994, I have caused to be sent by first-class United States mail, postage prepaid, copies of the foregoing "Petition for Leave To File Supplemental Reply Comments" to the following:

Senator Harry Reid
United States Senate
Washington, DC 20510-2803

Jerrold Miller, Esquire
Miller and Miller, P.C.
P.O. Box 33003
Washington, DC 20033-0003
Counsel for Rock
"N" Roll, Inc.

Eric S. Kravetz, Esquire
Brown, Nietert & Kaufman
1920 N St., N.W., Suite 660
Washington, DC 20036
Counsel for Patmor
Broadcasting Corp.

Ms. Leslie K. Shapiro*
Allocations Branch
Room 8313, 2025 M St., N.W.
Federal Communications Commn.
Washington, DC 20554


Lucy S. Colebaugh

*by hand delivery